IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 26TH JULY 2007 / 4TH SRAVANA 1929

Bail Appl..No. 4525 of 2007()

CRIME NO.23 OF 2007 OF AGALI POLICE STATION

: PETITIONER: ACCUSED NO.1:

LUJU, S/O. KURIAKOSE,
CHEMBOTHANADY VEEDU, KARARA, AGALI, PALAKKAD.

BY ADV. SRI.MANSOOR.B.H.

RESPONDENTS: COMPLAINANT:

THE STATION HOUSE OFFICER,
AGALI POLICE STATION, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 26/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.4525 of 2007

Dated this the 26th day of July, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations under the Kerala Abkari Act. He is the 1st accused. Altogether there are 4 accused persons. On 27.02.07 at about 10.45 p.m when the police party detected a crime. An illicit activity was going on in the residential premises of the petitioner. In the compound of the residential premises, all the 4 accused were allegedly found in possession of 23 X 375 ml of arrack. The 4th accused was arrested at the sport. Seizure mahazar prepared as also the contemporaneous occurrence report show the complicity of the petitioner. The petitioner had taken to his heels and could not be arrested by the detecting police party. Investigation is in progress. The 3rd accused has also been arrested. The petitioner and the 2nd accused are not available for arrest. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. He was not present at the spot of the crime. He had no knowledge of the alleged crime which was allegedly committed in his residential premises.

3. The learned Public Prosecutor opposes the application. It is idle to assume that such activity was going on without the

knowledge of the petitioner. All the available indications point to the truth of the case of the investigator that the petitioner had take to his heels on coming to know of the detecting party approaching the scene, submits the learned Public Prosecutor .

4. I have considered all the relevant inputs. Even regular bail can be granted to the petitioner only if this Court is in a position to entertain both satisfactions contemplated under Section 41 A of the Kerala Abkari Act. In the facts and circumstances of the case I am unable to entertain either of those two satisfactions. I am of opinion that this is a fit case where the petitioner must resort to the ordinary and normal course of appearing before the Investigating Officer or the learned Magistrate having jurisdiction. He must then seek regular bail.

5**.** This application is, in these circumstances, dismissed, but I may hasten to observe that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-